

CHARGES, WAIVERS, AND COLLECTIONS

§ 17.101 Charges for care or services.

Charges at the indicated rates shall be made for Department of Veterans Affairs hospital care or medical services (including, but not limited to, dental services, supplies, medicines, orthopedic and prosthetic appliances, and domiciliary or nursing home care) as follows:

(a) *Furnished in error or on tentative eligibility.* Charges at rates prescribed by the Under Secretary for Health shall be made for inpatient or outpatient care or services (including domiciliary care) authorized for any person on the basis of eligibility as a veteran or a tentative eligibility determination under § 17.34 but he or she was subsequently found to have been ineligible for such care or services as a veteran because the military service or any other eligibility requirement was not met, or

(b) *Furnished in a medical emergency.* Charges at rates prescribed by the Under Secretary for Health shall be made for any inpatient or outpatient care or services rendered any person in a medical emergency who was not eligible for such care or services as a veteran, if:

(1) The care or services were rendered as a humanitarian service, under § 17.43(c)(1) or § 17.95 to a person neither claiming eligibility as a veteran nor for whom the establishment of eligibility as a veteran was expected, or

(2) The person for whom care or services were rendered was a Department of Veterans Affairs employee or a member of a Department of Veterans Affairs employee's family; or

(c) *Furnished beneficiaries of the Department of Defense or other Federal agencies.* Except as provided for in paragraph (f) of this section and the second sentence of this paragraph, charges at rates prescribed by the Office of Management and Budget shall be made for any inpatient or outpatient care or services authorized for a member of the Armed Forces on active duty or for any beneficiary or designee of any other Federal agency. Charges for services provided a member or former member of a uniformed service who is entitled to retired or re-

tainer pay, or equivalent pay, will be at rates prescribed by the Secretary (E.O. 11609, dated July 22, 1971, 36 FR 13747), or

(d) *Furnished pensioners of allied nations.* Charges at rates prescribed by the Under Secretary for Health shall be made for any inpatient or outpatient care or services rendered a pensioner of a nation allied with the United States in World War I and World War II; or

(e) *Furnished under sharing agreements.* Charges at rates agreed upon in an agreement for sharing specialized medical resources shall be made for all medical care or services, either on an inpatient or outpatient basis, rendered to a person designated by the other party to the agreement as a patient to be benefited under the agreement; or

(f) *Furnished military retirees with chronic disability.* Charges for subsistence at rates prescribed by the Under Secretary for Health shall be made for the period during which hospital care is rendered when such care is rendered to a member or former member of the Armed Forces required to pay the subsistence rate under § 17.47 (b)(2) and (c)(2).

(g) *Furnished for research purposes.* Charges will not be made for medical services, including transportation, furnished as part of an approved Department of Veterans Affairs research project, except that if the services are furnished to a person who is not eligible for the services as a veteran, the medical care appropriation shall be reimbursed from the research appropriation at the same rates used for billings under paragraph (b) of this section.

(h) *Furnished for nonservice-connected disabilities.* (1) Charges at rates prescribed by the Secretary shall be made for inpatient or outpatient care and services rendered a veteran for nonservice-connected disabilities,

(i) Incident to the veteran's employment and the disability is covered under a workers' compensation law or plan that provides reimbursement or indemnification for the cost of such care and services,

(ii) As the result of a motor vehicle accident in a State which required automobile accident reparations insurance, or

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(iii) As the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person so injured is entitled to receive health care and services for that injury at the expense of the State or subdivision.

(Authority: 38 U.S.C. 1729, sec. 19013, Pub. L. 99-272)

(2) Charges at rates prescribed by the Secretary shall be made for inpatient or outpatient care and services rendered to a veteran who has no service-connected disabilities and who is entitled to care, or reimbursement for the expenses of care, under an insurance policy, or contract medical, or hospital service agreement, membership, or subscription contract, or similar agreement for the purpose of providing, paying for, or reimbursing expenses for health service.

(i) No deductible and/or coinsurance charge prescribed by any such policy, contract, membership or agreement shall be made to or required from the otherwise eligible veteran as a condition to receiving care.

(ii) VA medical, financial, and other records shall, to the extent reasonably necessary and permitted by law, be made available for inspection and review by the parties to any kind of agreement referred to in paragraph (h) (1) and (2) of this section with respect to which recovery or collection sought by VA for the purpose of verifying that services for which recovery or collection is sought were furnished and that the provision of such services meets criteria generally applicable under the health plan contract involved.

(Authority: 38 U.S.C. 1729(h)(i); Pub. L. 99-272)

(3) The method for computing the charges for medical care and services is based on the Cost Distribution Report, which sets forth the actual basic costs and per diem rates by type of inpatient care and outpatient visit. Factors for depreciation of buildings and equipment and Central Office overhead are added, based on accounting manual instructions. Additional factors are added for interest on capital investment and for standard fringe benefit costs covering government employee retirement and disability costs. The

current year billing rates are projected on prior year actual rates by applying the budgeted percentage increase. In addition, based on the detail available in the Cost Distribution Report, VA intends to, on each bill break down the all-inclusive rate into its three principal components; namely, physician cost, ancillary services cost, and nursing, room and board cost. The rates generated by the foregoing methodology are the same rates prescribed by the Office of Management and Budget and published in the FEDERAL REGISTER for use under the Federal Medical Care Recovery Act, 42 U.S.C. sections 2651-2653.

(Authority: 38 U.S.C. 1729; sec. 19013, Pub. L. 99-272)

(4) The reasonable cost of care or services sought to be recovered or collected from a third party liable under a health plan contract may not exceed the amount that such third party demonstrates to the satisfaction of the Secretary it would pay for the care or services in accordance with the prevailing rates at which the third party makes payments for comparable care under health plan contracts to facilities (other than facilities of departments or agencies of the United States) in the same geographic area.

(Authority: 38 U.S.C. 1729; sec. 19013, Pub. L. 99-272)

(5) Any contract or agreement into which the Secretary enters with a person under 31 U.S.C. 3718 for collection services to recover indebtedness owed the United States under this section shall provide, with respect to such services, that such person is subject to 38 U.S.C. 5701 and 7332.

(Authority: 38 U.S.C. 1729; sec. 19013, Pub. L. 99-272)

(6) Amounts collected or recovered on behalf of the United States under this section shall be deposited into the Treasury as miscellaneous receipts.

(Authority: 38 U.S.C. 1729; sec. 19013, Pub. L. 99-272)

(i) *Furnished at national conventions.* Charges specified in contractual agreements with Department of Veterans Affairs recognized service organizations shall be made for emergency

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medical services furnished at national conventions of such organizations to individuals not eligible for such services under other provisions of this part.

(Authority: 38 U.S.C. 1711(c))

[32 FR 11382, Aug. 5, 1967, as amended at 34 FR 7807, May 16, 1969; 35 FR 11470, July 17, 1970; 36 FR 18794, Sept. 22, 1971; 47 FR 50861, Nov. 10, 1982; 47 FR 58249, Dec. 1982; 52 FR 3010, Jan. 30, 1987. Redesignated and amended at 61 FR 21965, 21967, May 13, 1996; 62 FR 17072, Apr. 9, 1997]

§ 17.102 Collection of claims.

The collection of claims against persons in default of payment of charges made under any provision of § 17.101 shall be aggressive, on a timely basis with effective follow-up, and the provisions referable to claims collections in § 1.900 series of this chapter are for application.

[32 FR 11382, Aug. 5, 1967. Redesignated and amended at 61 FR 21966, 21967, May 13, 1996]

§ 17.103 Referrals of compromise settlement offers.

Any offer to compromise or settle any charges or claim for \$20,000 or less asserted by the Department of Veterans Affairs in connection with the medical program shall be referred as follows:

(a) *To Chiefs of Fiscal activities.* If the debt represents charges made under § 17.101(a), the compromise offer shall be referred to the Chief of the Fiscal activity of the facility for application of the collection standards in § 1.900 *et seq.* of this chapter, provided:

(1) The debt does not exceed \$1,000, and

(2) There has been a previous denial of waiver of the debt by a field station Committee on Waivers and Compromises.

(b) *To Regional Counsel.* If the debt in any amount represents charges for medical services for which there is or may be a claim against a third party tort-feasor or under workers' compensation laws or Pub. L. 87-693; 76 Stat. 593 (see § 1.903 of this chapter) or involves a claim contemplated by § 1.902 of this chapter over which the Department of Veterans Affairs lacks jurisdiction, the compromise offer (or request for waiver or proposal to terminate or suspend collection action) shall

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be promptly referred to the field station Regional Counsel having jurisdiction in the area in which the claim arose, or

(c) *To Committee on Waivers and Compromises.* If one of the following situations contemplated in paragraph (c)(1) through (3) of this section applies

(1) If the debt represents charges made under § 17.101(a), but is not of a type contemplated in paragraph (a) of this section, or

(2) If the debt represents charges for medical services made under § 17.101(b), or

(3) A claim arising in connection with any transaction of the Veterans Health Administration for which the instructions in paragraph (a) or (b) of this section or in § 17.105(c) are not applicable, then, the compromise offer should be referred for disposition under § 1.900 *et seq.* of this chapter to the field station Committee on Waivers and Compromises which shall take final action.

[39 FR 26403, July 19, 1974, as amended at 47 FR 58250, Dec. 30, 1982. Redesignated and amended at 61 FR 21966, 21967, May 13, 1996; 62 FR 17072, Apr. 9, 1997]

§ 17.104 Terminations and suspensions.

Any proposal to suspend or terminate collection action on any charges or claim for \$20,000 or less asserted by the Department of Veterans Affairs in connection with the medical program shall be referred as follows:

(a) *Of charges for medical services.* If the debt represents charges made under § 17.101 (a) or (b) questions concerning suspension or termination of collection action shall be referred to the Chief of the Fiscal activity of the station for application of the collection standards in § 1.900 *et seq.* of this chapter, or

(b) *Of other debts.* If the debt is of a type other than those contemplated in paragraph (a) of this section, questions concerning suspension or termination of collection action shall be referred in accordance with the same referral procedures for compromise offers (except the Fiscal activity shall make final determinations in terminations or suspensions involving claims of \$150 or